



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/676,696	09/30/2003	James McKernan	2705-730	8141
20575 7590 03/05/2008 MARGER JOHNSON & MCCOLLOM, P.C. 210 SW MORRISON STREET, SUITE 400 PORTLAND, OR 97204			EXAMINER EL CHANTI, HUSSEIN A	
			ART UNIT 2157	PAPER NUMBER
			MAIL DATE 03/05/2008	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No. 10/676,696	Applicant(s) MCKERNAN ET AL.	
	Examiner HUSSEIN A. EL CHANTI	Art Unit 2157	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 30 September 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. This action is responsive to application filed on Sep. 30, 2003. Claims 1-29 are pending examination.

#### ***Claim Rejections - 35 USC § 112***

2. Claims 11-23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claims are ambiguously constructed and indeterminate in scope because they purport to claim both a system/computer medium and method.

#### ***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claims 11-23 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 11-17 embrace or overlap two separate statutory classes of invention set forth in 35 U.S.C. 101 in a single claim. A claim of this type is precluded by the express language of 35 U.S.C. 101 which is drafted so as to set forth the statutory classes of invention in the alternative only. Each statutory class of claims must be considered independently on its own merits, see *Ex parte Lyell* (BdPatApp&Int) 17 USPQ2d 1548 *Ex Parte Lyell*.

#### ***Claim Rejections - 35 USC § 102***

Art Unit: 2141

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-29 rejected under 35 U.S.C. 102(e) as being anticipated by Baxter et al.

U.S. Patent No. 6,651,066 (referred to hereafter as Baxter).

As to claim 1, Baxter teaches a method for migrating content on a network comprising:

accessing a directory having a network address (see col. 2 lines 30-40);

creating a business rule and scripting said directory based on said business rule (see col. 4 lines 30-58 and col. 5 lines 42-col. 6 lines 62); and

initiating a content switch to automatically direct future access to said directory to a new environment based on said scripting, wherein said future access to said directory uses said network address (see col. 17 lines 27-col. 18 lines 19).

As to claim 2, Baxter teaches the method as recited in Claim 1 further comprising:

inputting a status of said directory into a spreadsheet template (see col. 4 lines 30-58 and col. 6 lines 15-32).

As to claim 3, Baxter teaches the method as recited in Claim 2 wherein said spreadsheet template comprises:

processing simple tables that are parsed with scripts to create switch compliant files (see col. 4 lines 4-55).

As to claim 4, Baxter teaches the method as recited in Claim 3 wherein said switch compliant files are in extensible markup language (XML) format (see col. 4 lines 4-29).

As to claim 5, Baxter teaches the method as recited in Claim 4 wherein said switch compliant files are uploaded to the content switch via additional scripts (see col. 4 lines 30-58 and col. 6 lines 15-32).

As to claim 6, Baxter teaches the method as recited in Claim 1 wherein said content switch is a layer 4-7 switch (see col. 5 lines 7-27).

As to claim 7, Baxter teaches the method as recited in Claim 1 wherein said new environment is on a new server distinct from a server maintaining an old environment (see col. 13 lines 66-col. 14 lines 16).

As to claim 8, Baxter teaches the method as recited in Claim 1 wherein said new environment is on a same server as an old environment (see col. 13 lines 66-col. 14 lines 16).

As to claim 9, Baxter teaches the method as recited in Claim 1 wherein said new environment is partially on a new server distinct from a server maintaining said old environment and partially on a same server as said old environment (see col. 13 lines 66-col. 14 lines 16).

As to claim 10, Baxter teaches the method as recited in Claim 1 further comprising:

Art Unit: 2141

rolling back said content switch to direct access to an old environment if said new environment is unacceptable (see col. 16 lines 8-34).

As to claims 11 and 18, Baxter teaches a computer system and computer medium comprising:

a bus;

a memory unit coupled with said bus;

a layer 4-7 switch (see col. 5 lines 7-27); and

a processor coupled with said bus, said processor for performing a method for migrating content on a network comprising:

accessing a database containing at least one directory (see col. 2 lines 30-40);

inputting said directory into a spreadsheet template (see col. 4 lines 30-58 and col. 5 lines 42-col. 6 lines 62);

creating a business rule and scripting the database based on said business rule (see col. 4 lines 30-58 and col. 5 lines 42-col. 6 lines 62);

using said layer 4-7 switch to automatically direct future access to said directory to a new environment based on said scripting (see col. 5 lines 7-27); and

rolling back to an old environment if said new environment is unacceptable (see col. 16 lines 8-34).

Claims 12-17 and 19-29 do not teach or define additional limitations over claims 1-11 and 18 and therefore are rejected for similar reasons.

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Art Unit: 2141

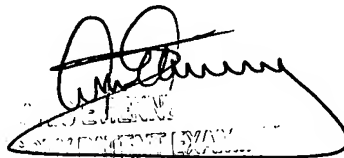
6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to HUSSEIN A. EL CHANTI whose telephone number is (571)272-3999. The examiner can normally be reached on Mon-Fri 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (571)272-4001. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Hussein Elchanti

Feb. 18, 2008

A handwritten signature in black ink, appearing to read 'Hussein Elchanti', is written over a faint, circular official stamp. The signature is fluid and cursive.